

MARCH 13, 1952

HIGHLIGHTS OF COMMUNICATIONS ACT AMENDMENT REPORTED
BY HOUSE INTERSTATE AND FOREIGN COMMERCE COMMITTEE

On March 12, 1952, the Committee on Interstate and Foreign Commerce ordered reported favorably to the House S. 658 (commonly known as the McFarland bill) with an amendment. The Committee Chairman, Robert Crosser (Ohio), designated Oren Harris (Ark.), one of the ranking Majority members of the Committee, to report the bill.

The amendment strikes out everything after the enacting clause of the bill as passed by the Senate and inserts a substitute.

In many respects the amended bill is the same as the bill passed by the Senate. The more important differences, as well as the principal changes which the amended bill would make in the present law, may be summarized as follows:

The provisions of the Senate bill relating to the reorganization of the Commission have been retained substantially intact. These provisions constitute a statutory confirmation of the reorganization already effectuated by the Commission which divides the Commission staff into four functional bureaus (namely, the Broadcast Bureau, the Common Carrier Bureau, the Safety and Special Radio Services Bureau, and the Field Engineering and Monitoring Bureau) and four staff offices (Office of Chief Engineer, Office of General Counsel, Office of Chief Accountant, and the Office of Secretary). Each Commissioner would be provided with a professional assistant of his own choice.

The members of the Office of Opinion and Review (formerly known as the Office of Formal Hearing Assistants) as well as other employees of the Commission staff (except the professional assistants of the Commissioners) would be prohibited from making recommendations to the Commission with respect to the disposition of adjudication cases in which hearings are held (for example, cases involving the granting, renewal, or revocation of station licenses).

The provisions of the Communications Act authorizing the Commission to divide itself into panels which would have been eliminated by the Senate bill are retained in the amended bill.

The amended bill retains the Senate provision requiring the Commission to report to the Congress any case of an original application for a broadcast license, or renewal or transfer thereof, which has not been finally decided by the Commission within three months from the date of filing of the application, or six months wherever a hearing is required.

The amended bill provides several procedural safeguards not contained in the present law. Before the Commission may formally designate for hearing an application for a license (or a renewal thereof) or for a construction permit, it must notify the applicant and other known parties in interest of the grounds and reasons for the Commission's inability to grant the application without a hearing. The applicant must be given an opportunity to reply and the case may be set down for hearing by the Commission only after consideration of such reply.

The Commission must notify the applicant and all other known parties in interest of the grounds and reasons for setting an application down for hearing. Parties in interest, if any, whom the Commission fails to notify may file a petition for intervention.

In cases in which an application is granted by the Commission without a hearing, the grant remains subject to protest for a period of 30 days by any party in interest. After the Commission has satisfied itself that the allegations of fact set forth in the protest show that the protestant is a party in interest, the Commission must set the application down for hearing on the issues set forth in the protest.

With respect to the renewal of broadcasting licenses, the Committee amendment provides that such renewal shall be granted if the Commission finds that the public interest, convenience and necessity would be served thereby. The amendment also provides that the Commission shall not require an applicant for renewal to furnish any information previously furnished by such applicant or not directly material to the question of renewal. A special procedural provision contained in Section 13 of the Senate bill dealing with cases of renewal in which the Commission must hold hearings, has been eliminated. The present law provides that applications for renewal shall be governed by the same considerations and practice which affect the granting of original applications.

The amended bill modifies the provisions of the Communications Act governing transfers of station licenses and construction permits by providing that the Commission shall, in cases of transfers, proceed as if the transferee was the only applicant for an original license or permit. The Commission must approve the transfer if it determines that the public interest is served thereby.

The amended bill does not change Section 311 of the Communications Act, which authorizes the Commission to refuse a license to persons who have been finally adjudged guilty by a Federal court of unlawfully monopolizing radio communications. The Senate bill would have eliminated this authority from present law.

The amended bill gives the Commission power to issue cease and desist orders, to suspend licenses for not to exceed 90 days, and to levy fines up to \$500 per day for violations of the Communications Act, Commission regulations, or treaties. The Commission's present power, under the Communications Act, to revoke licenses for similar offenses is limited by the amended bill so that it may be exercised only in case of violations which are wilfull or repeated. The Senate bill provides for the issuance of cease and desist orders but does not contain the additional powers of suspending licenses or levying fines.

With respect to review by the Supreme Court in cases of license revocation or failure to renew a license, the amended bill retains the present law that such review is discretionary with the Supreme Court. The Senate bill would have granted such appeals as a matter of right.

Finally, the amended bill prohibits the Commission from adopting any rule or regulation of substance or procedure which discriminates against any person based upon interest in, association with, or ownership of any medium primarily engaged in the gathering and dissemination of information. No application for a construction permit or station license (or for the renewal, modification, or transfer thereof) may be denied by the Commission solely because of any such interest, association, or ownership. No comparable provision is contained in the present law or in the Senate bill.